

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 22, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:97od-345

OAHU

Grant of Perpetual, Non-Exclusive Easement to Department of Transportation for
Sidewalk Purposes; Rescind Prior Action of March 27, 1997, Item D-12, Waikiki,
Honolulu, Oahu, Tax Map Key: (1) 2-3-037:portion 002

APPLICANT:

Department of Transportation whose business and mailing address is 869 Punchbowl
Street, Honolulu, Hawaii 96813.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Honolulu, Oahu, identified by tax map key: (1)
2-3-037:portion 002, as shown on the attached map labeled Exhibit A.

AREA:

925 square feet, more or less.

ZONING:

State Land Use District: Urban
City & County of Honolulu LUO: P-2

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 1348 set aside to the City and County of Honolulu for Addition to Ala Moana Park purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a sidewalk over and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that states "Operations, repairs or maintenance of existing structure, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION:

Not applicable. Government agency.

APPLICANT REQUIREMENTS:

None. Applicant has provided the map and description for the subject easement area.

REMARKS:

Pursuant to Act 218, SLH 1995 and Act 287, SLH 1996, the Department of Transportation (DOT) has undertaken a highway project of widening the subject sidewalk. The purpose of this project is to accommodate the increase in traffic associated with the Convention Center.

On March 27, 1997, item D-12, the Board approved to recommend the Governor issues an executive order withdrawing from EO 1348 and re-setting aside the subject area to DOT for sidewalk purposes. A copy of the submittal is attached as Exhibit B. On May 9, 1997, item D-18, the Board issued an immediate construction right-of-way. For reasons unknown to the staff, the set aside was not follow-up since 1997. Staff became aware of this outstanding request recently.

Upon reviewing the request, staff does not believe setting aside is the proper manner for the disposition of the subject sidewalk. Staff notes that the subject area is a portion of the Ala Moana Park managed by the county. Any withdrawal from such executive order requires subdivision process which involves more time and cost. If the goal is to ensure the sidewalk is properly maintained by an agency, an easement will meet the purpose. Actually, DOT has obtained approval from the county regarding the designation of the sidewalk easement and DOT has no objection to the issuance of an easement.

Staff recommends the Board rescind its approval for the set aside in 1997, and authorizes the issue of an easement to accommodate DOT's request.

Both DOT and the Department of Parks and Recreation of the City and County of Honolulu do not have any objection to the subject request. Staff did not solicit comments from other governmental agencies since the subject request is for housekeeping purpose.

Upon approval, staff will request for the Governor's concurrence to the issuance of easement over the subject executive order. There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Rescind its prior approval dated March 27, 1997, item D-12.
3. Authorize the issuance of a perpetual, non-exclusive easement to the Department of Transportation covering the subject area for sidewalk purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and


May 22, 2009

- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

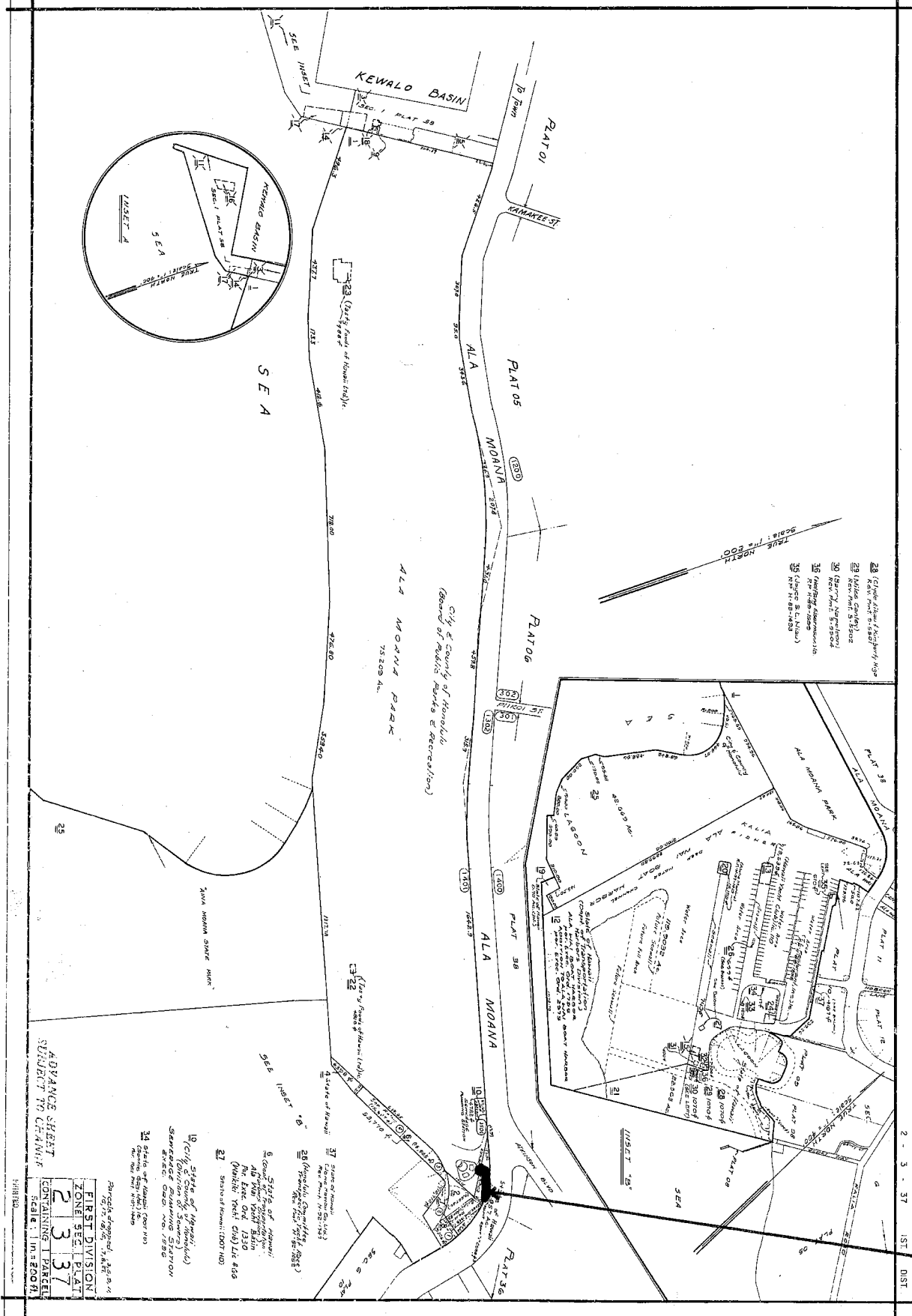

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



[illegible]

Subject
Location

EXHIBIT "A"

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 27, 1997

Board of Land and
Natural Resources
Honolulu, Hawaii

SUBJECT: Withdrawal of Lands from Governor's Executive Order No. 1348 and Reset Aside to the Department of Transportation, State of Hawaii, for Sidewalk Purposes, at Ala Moana Boulevard and Atkinson Drive, in Conjunction with the Ala Moana Boulevard Intersection Improvements Project No. 92A-01-97 at Ala Moana Park, Kalia, Honolulu, Oahu, TMK: 1st/2-3-37:01 (portion).

STATUTE: Section 171-11, Hawaii Revised Statutes, as amended.

APPLICANT: Department of Transportation, State of Hawaii.

FOR: Authorization to withdraw approximately 3,230 sq.ft., more or less, from Governor's Executive Order No. 1348 as set aside as an addition to Ala Moana Park, under the management and control of the City and County of Honolulu, Board of Public Parks and Recreation and reset aside to the Department of Transportation, State of Hawaii, for Sidewalk Purposes at Ala Moana Boulevard and Atkinson Drive, in conjunction with the Ala Moana Boulevard Intersection Improvements at Ala Moana Park, Kalia, Honolulu, Oahu, TMK: 1st/2-3-37:01 (portion).

LAND TITLE

STATUS: Subsection 5 (a) land of the Hawaii Admissions Act, non-ceded land.

STATUS: Encumbered by Governor's Executive Order No. 1348, to the City and County of Honolulu, Board of Public Parks and Recreation, as an addition to Ala Moana Park, executed on January 19, 1950.

ZONING: State Land Use Commission: Urban
City and County of Honolulu: P-2

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
MAR 27 1997

ITEM D-12

EXHIBIT "B"

LAND AREA:

3,230 sq.ft., more or less, the exact area to be determined by the State Survey Office, Department of Accounting and General Services.

CHARACTER

OF USE: Sidewalk Purposes.

COMMENCEMENT

DATE: To be determined by the Chairperson

OEQC

REQUIREMENTS:

Chapter 343, Hawaii Revised Statutes as implemented by Title 11-200-8 (1) of the Hawaii Administrative Rules exempts the application of OEQC Requirements on operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing.

REMARKS: In connection with the Ala Moana Boulevard Intersection Improvements Project No. 92A-01-97 at Ala Moana Boulevard and Atkinson Drive, the State of Hawaii, Department of Transportation, is requesting the subject easement and a construction right-of-entry.

The purpose of this highway project is to accommodate the anticipated increase in traffic associated with the Convention Center, which is located in the vicinity. The street must be widened and subsequently the sidewalk must be widened and reconstructed in the subject area. The Legislature authorized funds for this highway project under Act 218, SLH 1995 and Act 287, SLH 1996.

RECOMMENDATION:

That the Board:

- A. Recommend to the Governor the issuance of an Executive Order withdrawing approximately 3,230 sq.ft., more or less, from Governor's Executive Order No. 1348 under the above-listed terms and conditions which are by this reference incorporated herein and in addition to the following terms and conditions:
 1. Disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority of both, in any regular or special session next following the date of the set aside.
 2. In the event the lands set aside are not being utilized or required for the public purposes stated for a continuous period of one year or more: (a) The Division of State Parks, State of Hawaii shall within a reasonable time restore the premises to a condition satisfactory to the

Department of Land and Natural Resources; and (b) The Governor's Executive Order setting aside the lands shall be withdrawn and the lands returned to the management and control of the Department of Land and Natural Resources, free of all liens and other encumbrances.

3. Review and approval of the set aside documents by the Attorney General's Office.
 4. Other terms and conditions as may be prescribed by the Chairperson.
- B. Recommend to the Governor the issuance of an Executive Order to the Department of Transportation, State of Hawaii for Sidewalk Purposes under the above-listed terms and conditions which are by this reference incorporated herein and in addition to the following terms and conditions:
1. Disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority of both, in any regular or special session next following the date of the set aside.
 2. In the event the lands set aside are not being utilized or required for the public purposes stated for a continuous period of one year or more: (a) The Division of State Parks, State of Hawaii shall within a reasonable time restore the premises to a condition satisfactory to the Department of Land and Natural Resources; and (b) The Governor's Executive Order setting aside the lands shall be withdrawn and the lands returned to the management and control of the Department of Land and Natural Resources, free of all liens and other encumbrances.
 3. Review and approval of the set aside documents by the Attorney General's Office.
 4. Other terms and conditions as may be prescribed by the Chairperson.

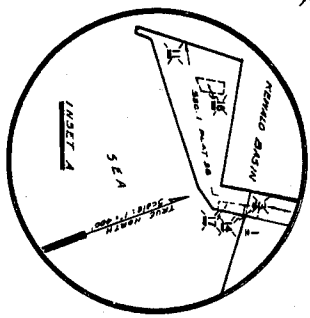
Respectfully submitted,

Cecil B. Santos

Cecil B. Santos
Oahu District Land Agent

APPROVED FOR SUBMITTAL:

Michael D. Wilson
MICHAEL D. WILSON, Chairperson



SEA

KAWALO BASIN

PLAT 01

PLAT 05

MOANA

PLAT 06

PLAT 08

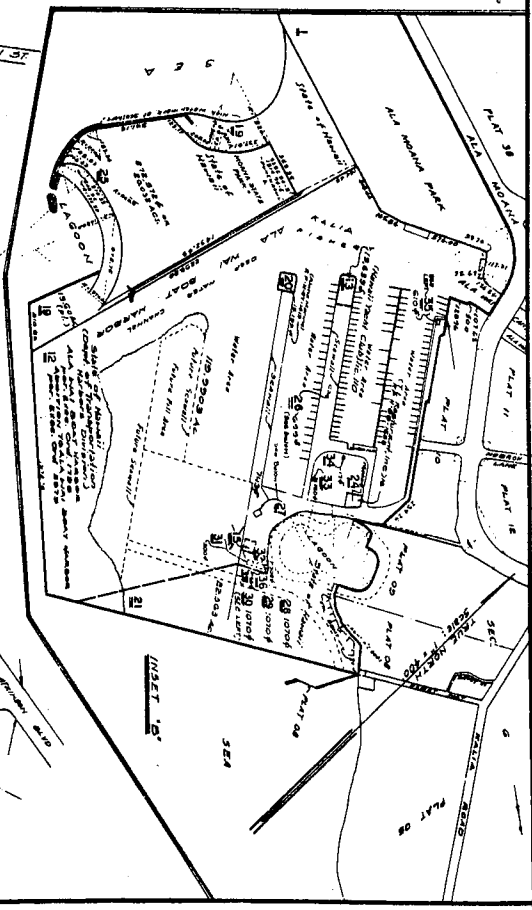
ALA MOANA

ALA MOANA PARK
(City of Honolulu)
(Board of Public Parks & Recreation)

ALA MOANA PARK
(City of Honolulu)
(Board of Public Parks & Recreation)

TRADE NORTH
SCALE: 1" = 100'

- 23 (Hawaii County)
Kawalo Point, 2, 1902
- 24 (Hawaii County)
Kawalo Point, 2, 1902
- 25 (Hawaii County)
Kawalo Point, 2, 1902
- 26 (Hawaii County)
Kawalo Point, 2, 1902



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ADVANCE SHEET
SUBJECT TO CHANGE

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